

## CHAPTER 6

### LEAVE

#### Section 1. **Vacation Leave.**

(a) **Accrual Base Rates.** Vacation leave accrual base rates shall be determined by the amount of completed continuous service as follows:

0	through 48 months	-	8 hours per month
49	through 108 months	-	10 hours per month
109	through 168 months	-	12 hours per month
169	through 228 months	-	14 hours per month
229	or more months	-	16 hours per month

(b) **Service Credits to Rehired Employees.** Service Credits for non-continuous service shall be granted to a rehired employee claiming prior Executive, Judicial or Legislative Branch service followed by a separation, upon the completion of twenty-four (24) months continuous service since the most recent entrance to State employment:

(i) Prior service shall be on record with the Wyoming Retirement System or shall be otherwise verified through the Human Resource Division by the employee, agency or branch;

(ii) Service credits shall be given for any calendar month during which work was actually performed;

(iii) Reinstatement of service credits shall be limited to a one-time occurrence. Employees who leave state service after receiving reinstatement of service credit shall forfeit all prior service if subsequently rehired.

#### (c) **Monthly Accrual Rates.**

(i) Permanent employees, probationary employees, and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue vacation leave according to the number of hours worked in the month;

(ii) Temporary employees shall accrue vacation leave, after six (6) months of continuous employment, according to the number of hours worked in the month;

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iv) Intermittent employees, emergency employees, interns, and at-will contract employees shall not accrue vacation leave;

(v) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by the employee's accrual base rate, this total is divided by 160;

(vi) The following rates shall be used:

160 or more hours	-	100% of base rate
40 through 159 hours	-	Prorated according to formula

39 or less hours - 0% of base rate

(A) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

(vii) Accrued vacation leave is not available for use until the following month after the accrual period. Vacation leave is accrued only after the employee works the required time during the month.

(d) Authorized Use. Agency management shall consider the needs of the employee and the staffing requirements of the agency in approving vacation leave:

(i) Vacation leave shall not be authorized for periods of incarceration;

(ii) An agency head may authorize an employee terminating for any reason other than disciplinary reasons to use accrued unused vacation leave beyond the employee's actual last day of work or service to the state in lieu of receiving payment for the unused balance.

(e) Interagency Appointments. An employee who is appointed to a position in a different agency shall not lose any unused vacation leave as a result of the interagency transfer, promotion, or reappointment.

(f) Interbranch Appointments. An employee appointed without a separation from the State Judicial, or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused vacation leave. The employee shall accrue vacation leave according to established Executive Branch rates for completed continuous service which shall include continuous service credited while employed by the other branch:

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued vacation leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of vacation leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued vacation leave for Executive branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(g) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued vacation leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

(h) Maximum Accrual. On December 31 of each year, accrued unused vacation leave in excess of the carry-over maximum shall be reduced to this maximum and the employee shall forfeit the right to use this excess leave. The carry-over maximum, which depends upon completed State service, is determined as follows:

<u>Completed State Service</u>		<u>Carry-Over Maximum</u>
0 through 108 months	-	240 hours (30 days)
109 through 168 months	-	288 hours (36 days)
169 through 228 months	-	336 hours (42 days)
229 or more months	-	384 hours (48 days)

## Section 2. **Sick Leave.**

### (a) Monthly Accrual Rates:

(i) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall accrue sick leave according to the number of hours worked in the month;

(ii) Temporary employees shall accrue sick leave, after six (6) months of continuous employment, according to the number of hours worked in the month;

(iii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iv) Intermittent employees, emergency employees, interns, and at-will contract employees shall not accrue sick leave;

(v) The formula for determining the monthly accrual rate for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160;

(vi) The following rates shall be used:

160 or more hours	-	8 hours per month
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	no accrual

(vii) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section;

(viii) Accrued sick leave is not available for use until the following month after the accrual period. Sick leave is accrued only after the employee works the required time during the month.

(b) **Authorized Use.** Accrued sick leave may be used during scheduled work hours when an employee is incapacitated by sickness or injury; for pregnancy, childbirth, or related medical conditions; for medical, dental or optical examinations or treatment; for death or illness of a member of the employee's or the employee's spouse's immediate family and such other persons as approved by the agency head; or when an employee has been exposed to a contagious disease such that attendance at work could jeopardize the health of others:

(i) Persons affected by pregnancy, childbirth and related medical conditions shall be treated the same as persons affected by other medical conditions;

(ii) The agency shall deduct from an employee's compensatory time, if available, otherwise from their vacation leave balance for any of the reasons listed in 2(b) above when the employee's sick leave balance is insufficient to cover the authorized absence from work.

(c) **Notification.** Employees who are unable to work for any of the reasons stated in Section 2 (b) of this chapter shall notify their immediate supervisor as soon as possible of their absence or anticipated absence. If such notification is not given, the agency head shall charge the absence to vacation leave or leave without pay, and may consider appropriate disciplinary action.

(d) Approval. The agency head shall approve the use of sick leave only after having determined that the absence was for a legitimate reason listed in 2(b) above. An employee may be required to submit substantiating evidence including, but not limited to, a health care provider's certificate. Abuse of sick leave is cause for disciplinary action:

(i) An agency head shall not approve the use of sick leave for end of service leave.

(e) Donation. An agency head or designee, after determining that the employee has a legitimate reason to be absent and the employee does not have a documented history of abusing leave, may request donated sick leave from the agency and may request donated sick leave from other state employees for an employee who has exhausted all of their accrued sick leave, compensatory time vacation leave and all other available leave:

(i) An employee who has accrued a minimum of eighty (80) hours of sick leave may donate a minimum of four (4) hours up to the maximum of sixteen (16) hours of sick leave per calendar year to the same recipient who has an immediate and reasonable need for such assistance provided the employee maintains an accrued minimum balance of eighty (80) hours of sick leave;

(ii) Donations between immediate family members who are State employees are not subject to the sixteen (16) hour maximum provided the employee maintains an accrued minimum balance of eighty (80) hours of sick leave;

(iii) Donors shall give their agency head, who shall approve or disapprove the donation, a written statement specifying the number of hours donated and the name and agency of the employee to whom the donation is being made;

(A) Donations to employees in agencies other than the donor's agency shall be approved by the donee's agency head or designee;

(iv) Employees shall have depleted all of their sick, vacation, or other available leave prior to use of donated sick leave;

(v) Agency heads shall ensure that all donated but unused sick leave shall be credited back to the original donor(s) when the recipient returns to work and/or no longer has an immediate and reasonable need for the leave; or when the recipient dies.

(f) Interagency Appointments. An employee appointed to a position in a different agency shall not lose any accrued sick leave as a result of the interagency transfer, promotion or reappointment.

(g) Interbranch Appointments. An employee appointed without a separation from State Judicial or Legislative Branch who has not been paid for accumulated leave, shall be allowed to transfer unused sick leave. The employee shall accrue sick leave according to established Executive Branch rules:

(i) An employee who is appointed without a separation to the State Judicial or Legislative Branch may be allowed to transfer unused accrued sick leave if authorized by reciprocal personnel policies adopted by the appropriate entities. A copy of the personnel policies authorizing the interbranch transfer of sick leave shall accompany the request to transfer the leave;

(ii) Absent a reciprocal personnel policy, accrued sick leave for Executive Branch employees transferring to the State Judicial or Legislative Branch shall be paid off at the time of transfer in accordance with the State Compensation Policies.

(h) An employee appointed to or from the University of Wyoming shall not be allowed to transfer unused accrued sick leave and shall be paid out in accordance with the State Compensation Policies or applicable University of Wyoming Policy.

### Section 3. **Bereavement Leave.**

(a) Permanent employees, probationary employees, temporary employees who have been employed for six (6) continuous months of employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall be granted three (3) regularly scheduled work days not to exceed a maximum of twenty-four (24) hours of bereavement leave upon the death of an immediate family member. This leave shall be for the purposes associated with the death of the family member and shall be used before the use of any other leave authorized for this purpose:

(i) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(ii) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted bereavement leave.

### Section 4. **Holiday Leave.**

(a) Permanent employees, probationary employees, at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, shall receive holiday leave, according to the number of regularly scheduled work hours in the month:

(i) Temporary employees shall receive holiday leave, after six (6) months of continuous employment, according to the number of hours worked in the month;

(ii) Executive employees and at-will employees at the Governor's office shall follow the Executive Leave Policy;

(iii) Intermittent employees, emergency employees, interns, and at-will contract employees shall not receive holiday leave;

(iv) The formula for determining the holiday leave for 40 through 159 hours worked in the month is prorated as follows: hours worked in the month are multiplied by eight hours, this total is divided by 160;

(v) The following rates shall be used:

160 or more hours	-	full 8 hours per month
40 through 159 hours	-	Prorated according to formula
39 or less hours	-	none

(b) Employees eligible to receive holiday leave and who are not required to work shall be granted paid leave not to exceed eight (8) hours per holiday from regularly scheduled work hours occurring on the following days:

(i) New Year's Day (January 1);

(ii) Martin Luther King, Jr. / Wyoming Equality Day (Third Monday in January);

- (iii) President's Day (third Monday in February);
- (iv) Memorial Day (Last Monday in May);
- (v) Independence Day (July 4);
- (vi) Labor Day (first Monday in September);
- (vii) Veteran's Day (November 11);
- (viii) Thanksgiving Day (fourth Thursday in November);
- (ix) Christmas Day (December 25); and

(x) Upon declaration by the Governor, any date declared by the President of the United States as an occasion of national mourning, rejoicing, or observance of national emergency.

(c) Holidays that fall on employee's regularly scheduled day off:

(i) If a holiday falls on the first day of an employee's regularly scheduled time off period, the day before shall be granted paid leave from regularly scheduled work hours for that employee;

(ii) If a holiday falls on a subsequent day off, the day after shall be granted paid leave from regularly scheduled work hours for that employee;

(iii) If an employee is unable to take paid leave as indicated above in (i) or (ii) due to staff shortage and or scheduling conflicts, the employee may elect to receive the amount of time authorized in the form of pay to be paid at the employees regular rate of pay.

(d) Employees on educational leave or leave without pay the day before or the day after a holiday shall not be entitled to paid leave.

(e) Time elapsed while an employee is on any authorized paid leave, except educational leave, shall be considered hours worked for purposes of this section.

#### **Section 5. Exempt Paid Time Off.**

(a) Employees exempt from overtime, who are required to work on a holiday listed in Section 4(b), shall be granted paid time off at the rate of one and one-half (1½) hours off for each hour worked. Employees shall use any accumulated paid time off before being entitled to use any accrued vacation leave. As of January 1 of each year, all unused paid time off shall be paid off at the employee's hourly compensation rate, unless otherwise approved by the Human Resources Division.

#### **Section 6. Parental Leave.**

(a) Employees who are parents of a newborn or recently adopted child, or are expectant parents, may with Agency head approval take accrued sick leave, compensatory time, vacation leave, or leave without pay beyond the time allowed under Family Medical Leave Act (FMLA) for purposes associated with the birth or adoption of a child.

#### **Section 7. Voting Leave.**

(a) Employees shall, at the time specified by their supervisor, be allowed one (1) hour of leave with pay for the purposes of voting in an official public election:

(i) This section shall not apply to an employee who has three (3) or more consecutive non-working hours during the time the polls are open. (Reference W.S. 22-2-111).

**Section 8. Court Leave.**

(a) Permanent employees, probationary employees, temporary employees who have been employed for (6) months of continuous employment and at-will employees, except executive employees, at-will employees at the Governor's office, and at-will contract employees, required to serve as a member of a jury panel or as a witness of the court shall be granted leave with pay for their regularly scheduled work days(s) for the performance of such obligation:

(i) The employee shall be required to provide written documentation of such obligation which shall be retained in the employee's personnel file.

(b) Executive and at-will employees at the Governor's office shall follow the Executive Leave Policy.

(c) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 9. Legislative Leave.**

(a) An employee elected to serve as a member of the State Legislature shall be required to take leave without pay for the performance of all legislative duties.

**Section 10. Educational Leave.**

(a) An agency head may, with notification to the Human Resources Division, grant educational leave to an employee for up to twenty-four (24) months to allow the employee to acquire job-related training or education. In notifying the Human Resources Division, the agency head shall provide a written description of the training or education which the employee intends to pursue and an explanation of how such training or education would benefit the State.

(b) The agency and employee shall enter into a contract outlining the provisions of the educational leave.

(c) Probationary employees, intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 11. Administrative Leave.**

(a) An agency head may grant an employee administrative leave with pay to participate in meetings, seminars, hearings, examinations, and employee organization meetings:

(i) For other requested purposes, administrative leave request must be reviewed and evaluated for approval by the Governor or his designee.

(b) Upon declaration, the Governor may close state offices for the traditional observance of local celebrations, inclement weather conditions, or for other reasons or purposes that are deemed necessary:

(i) Employees required to work during the traditional observance of local celebrations shall be given compensatory time on an hour for hour basis;

(ii) Intermittent employees, emergency employees, interns, temporary employees who have been employed with the state less than six (6) months, and at-will contract employees are not eligible for these types of paid leave;

(iii) Upon a weather or other closure declared by either the Governor's Office or any agency head, an employee shall not be charged for time off from their regular schedule for the period of the closure unless the employee had been previously authorized any type of leave and is on leave at the time of the closure;

(A) Employee unable to report to work due to a weather-related road closure when state offices remain in operation are required to use available vacation or compensatory time to cover the absence.

(c) An agency head or designee is responsible for tracking the usage of these types of administrative leave hours in the state payroll system and are accountable for their appropriateness.

## **Section 12. Personal Leave.**

(a) An agency head may grant an employee up to two regularly scheduled days (not to exceed 16 hours) of personal leave with pay per calendar year in recognition of or for participating in the following activities:

(i) Employee recognition programs;

(ii) Participating in department wellness initiatives;

(iii) Merit incentive programs that have been submitted to and received prior written approval from A&I HRD;

(iv) Team based recognition – project completion that have been submitted to and received prior written approval from A&I HRD;

(v) To volunteer at a pre-approved non-profit community service organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(A) Employee must provide written verification from the organization that the organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and that the employee volunteers their own time for that organization in order to receive personal leave;

(B) Volunteer activities must not promote religion or attempt to influence legislation, governmental policy or elections to public office;

(vi) Family departing or returning from active duty military service; and

(vii) To attend military funerals.

(b) Prohibited Activities. Personal leave may not be granted for:

(i) Birthdays;

(ii) Early release for holidays; and

(iii) Undocumented performance.

(c) Agencies authorizing leave for (a)(i) through (iv) above shall submit written plans to the Human Resources Administrator for review and approval prior to the implementation.

(d) An agency head or designee is responsible for tracking the usage of these hours and are accountable for their appropriateness.

(e) The granting of personal leave is at the discretion of the agency head or their designee. It is neither an employee right nor an employee benefit.

(f) Intermittent employees, emergency employees, interns, and at-will contract employees shall not be granted leave with pay under this section.

**Section 13. Military Leave.**

(a) Military leave shall be granted in accordance with W.S. 19-11-108 (a-e).

**Section 14. Leave Without Pay.**

(a) Leave without pay may be granted at the discretion of the agency head in accordance with the following:

(i) An employee injured on the job and receiving Worker's Compensation benefits shall, upon request, be entitled to leave without pay in connection with the injury;

(ii) An employee on military leave described above in Section 13(a) shall, upon request, be entitled to leave without pay in accordance with W.S. 19-11-108 (a-e);

(iii) Except for the reasons indicated in (i) and (ii) above, leave without pay for medical reasons or any other reason where sick leave use is authorized, an employee shall use all accrued sick leave, compensatory time, vacation leave, or any other available leave before leave without pay will be authorized;

(iv) For all other types of leave without pay except legislative leave, an employee shall use all accrued compensatory time, vacation or other available leave before leave without pay will be authorized; and

(v) Leave without pay of more than fifteen (15) consecutive working days shall be reported in writing to the Human Resources Division. A leave without pay shall not continue for more than six (6) months without the approval of the Human Resources Division.

(b) The Governor may furlough employees due to lack of work or funding. An employee furloughed for lack of funding shall be on leave without pay and shall not use paid leave during the furlough period.

**Section 15. Administrative Review Leave.**

(a) An agency head may place an employee on administrative review leave with pay for a maximum of thirty (30) days when:

(i) The employee has been charged with or is under investigation for the commission of a crime which would raise reasonable doubt concerning the employee's suitability for continued employment; or

(ii) Allegations of misconduct have been made and, if confirmed, the employee's presence on the job may be detrimental to the operation of the agency; or

(iii) Incapacity based on fitness for duty evaluation; or

(iv) When a formal workplace investigation has commenced and removing a witness or complaining party from the workplace is prudent to conducting the investigation.

(b) The agency head shall provide the employee with written notice specifying the reason(s) for the administrative review leave and the effective date:

(i) A copy of the written notice shall be provided to the Human Resources Division Administrator;

(ii) An administrative review leave, with or without pay, may be extended beyond the thirty (30) day period with prior written approval of the Human Resources Administrator; and

(iii) If the charges are not filed, or the employee is found not guilty, the employee shall be returned to work, granted pay for any lost wages, and shall retain all rights and status previously held.

#### **Section 16. Family and Medical Leave Act (FMLA).**

(a) The Family and Medical Leave policy of the State of Wyoming shall be in accordance with and except as specified no more stringent than the provisions of Family and Medical Leave Act of 1993, Public Law 103-3 (Feb 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq., as amended).

(b) State Agencies are covered employers without regard to the number of employees employed.

(c) In all instances, the twelve (12) month period shall begin when leave is first used.

(d) Paid Leave. The FMLA leave period shall include the employee's accrued sick leave, vacation leave, accrued compensatory time leave, other available leave, and any donated sick leave allowed.

(e) Where two spouses are employed by the State of Wyoming their aggregate leave will be limited to the amount allowed by law.

(f) Leave without Pay. If an employee's accrued paid leave is less than the total FMLA entitled workweeks, the time remaining shall be taken as unpaid FMLA leave. Any leave without pay in excess of the total FMLA entitled workweeks maximum shall be at the discretion of the agency head per Chapter 6, Section 14, Leave without Pay:

(i) An employee whose work-related illness or injury meets the criteria for a serious health condition and is receiving paid worker's compensation benefits the absence shall be counted against the FMLA leave entitlement and shall not be allowed to use paid leave;

(ii) An employee on unpaid FMLA leave during a holiday shall not receive paid holiday leave.

(g) Certification. An agency shall require a medical certification from a health care provider for an employee's serious health condition or the employee's covered family member with a serious

health condition, or to care for a covered service member with a serious injury or illness or the appropriate certification for leave taken because of a qualifying exigency

(h) Agency requirements:

(i) Agencies shall comply with all requirements of the law and these rules and shall provide written notice detailing the specific expectations and obligations of the employee and explain any consequences of a failure to meet the obligations;

(ii) In all circumstances, the agency head or human resource office shall be responsible in designating leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed.

(i) Notice of leave:

(i) An employee shall give thirty (30) days' notice to the agency prior to the date the leave is to begin;

(ii) The employee shall advise their immediate supervisor as soon as possible and practicable if dates of scheduled leave change or are extended, or were initially unknown;

(iii) The agency head or Human Resource office shall determine the actual date on which an employee's FMLA leave commences;

(A) An employee shall provide sufficient information for the Agency to reasonably determine whether the FMLA may apply to the leave request.

(j) Denial of FMLA leave. Prior to denial of FMLA leave, the agency shall submit to the Human Resources Division a written request for approval of such denial.

(k) Time elapsed while an employee is on paid FMLA shall be considered hours worked.

(l) Time elapsed while an employee is on unpaid FMLA shall be included in calculating the total number of months of continuous service and shall not be considered time worked for purposes of accrual of any leave or other benefits.

(m) Does Not Return to Work. If an employee does not return to work following unpaid FMLA leave for a reason other than:

(i) The continuation, recurrence, or onset of a serious health condition which would entitle them to FMLA leave; or

(ii) Other circumstances beyond their control, the employee shall be required to reimburse the State for any portion of health insurance premiums paid on behalf of the employee during unpaid FMLA leave;

(iii) An employee who returns to work for a period of at least five (5) days is viewed as meeting the return to work requirement.